

## Cronin, Fried, Sekiya, Kekina &amp; Fairbanks

Attorneys at Law, A Law Corporation

Paul F. Cronin  
Gerald Y. Sekiya  
David L. Fairbanks  
Stuart A. Kaneko  
Keith K. H. Young  
Patrick F. McTernan  
Sylvia J. Luke  
Denise K. H. Kawatachi

L. Richard Fried, Jr.  
Wayne K. Kekina  
John D. Thomas, Jr.  
Bert S. Sakuda  
Gregory L. Lui-Kwan  
Geoffrey K. S. Komeya  
Clarence S. K. Kekina  
Howard G. McPherson  
Brian T. Toma

Davies Pacific Center, Suite 600  
841 Bishop Street  
Honolulu, Hawaii 96813-3962

Telephone (808) 524-1433  
Toll Free 1 (800) 227-8601  
Facsimile (808) 536-2073  
E-mail cfskf@croninfried.com  
www.croninfried.com

September 19, 2006

HAND DELIVERY

Honorable Barry M. Kurren  
United States District Court  
300 Ala Moana Boulevard  
Honolulu, Hawaii 96813

Re: *Miller v. Maui Ocean Activities, Inc.*, et al.  
Civil No. 04-00441 BMK

Dear Judge Kurren:

The parties have agreed to go forward in the state court lawsuit. The current federal Defendants will be added to the state court case, and will waive any statute of limitations defense.

Defendant Maui Ocean Activities has agreed to fund the needed medical care for Plaintiff Miller, so that she can receive the care she needs on an immediate basis.

We would like to stay the federal case, as opposed to dismissing it, so that Your Honor and/or Judge Kobayashi can remain involved as mediators.

We would like to discuss this with the Court at the time currently set for hearing Defendants' Motion to Dismiss, September 25, 2006, which is now mooted by the agreement. ✓

Respectfully,

  
Howard G. McPherson

HGM:dmp/knk

cc: Jeannette Miller  
John O'Kane Jr., Esq.  
Mark M. Nomura, Esq.  
Peter C. K. Fong, Esq.